REMARKS

The Office Action mailed August 30, 2006 has been reviewed and carefully considered. No new matter has been added.

Claims 3, 13, 15, 16, 20, and 21 have been amended. Claims 2, 6, 14, and 19 have been cancelled without prejudice. Claims 3–5, 7-8, 13, 15-18, and 20-21 are currently pending.

As noted above, Claims 3, 13, and 16, which are each independent claims, have been amended. Support for the amendments may be found at least at page 8, lines 10-27 of the Applicants' specification.

Claims 2-8, 13-15, 16, and 19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,754,271 to Gordon et al. (hereinafter "Gordon") in view of U.S. Patent Application Publication No. 2002/0184642 to Lude et al. (hereinafter "Lude"). Claims 17-18 and 20-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Lude, further in view of U.S. Patent No. 6,373,905 to Yasuda et al. (hereinafter "Yasuda").

As noted above, Claims 2, 6, 14, and 19 have been cancelled.

It is respectfully asserted that none of the cited references teach or suggest the following limitations now recited in amended Claims 3, 13, and 16:

> wherein said network packet structure includes transmission channel and time of transmission information for identifying a particular one or more of the plurality of available transmission channels and a corresponding one or more times for one or more subsequent transmissions that include any remaining packets forming the bitstream to allow a corresponding receiver to expect the remaining packets on the identified particular one or more of the plurality of available transmission channels at the corresponding one or more times.

With respect to previous Claim 14, now cancelled, the Examiner has cited figure 20 and column 23, lines 63-65 of Gordon for disclosing "time period" and column 24 of Gordon for disclosing "time point". However, the "time period" referred to by Gordon is the time period within a video sequence. That is, "[e]ach video sequence is composed of a time sequence of pictures" (Gordon, col. 17, lines 8-9). Thus, when Gordon discloses "the 'level zero' embodiment delivers ten video pictures for each time period" (Gordon, col. 23, lines 57-60), he is referred to the time periods within a video sequence (see also, e.g., Gordon, FIG. 10A, "time indices" t1-t15), and not a time that a receiver should expect remaining packets corresponding to a bitstream for which some packets have already been transmitted to the receiver, as essentially recited in Claims 3, 13, and 16. That is, Gordon uses the time periods for encoding, e.g., a sequence of mixed media (e.g., audio and video), and not for providing an expectation to a receiver of the receipt of future data corresponding to remaining packets of a bitstream already initially transmitted to the receiver. For example, the phrase "time point" disclosed in Gordon is a time point in a video sequence that is aligned with a similar time point in another video sequence to enable aligned encodings of the two video sequences (see, e.g., Gordon, col. 23, lines 63 to col. 24, line 8, and FIG. 20).

Accordingly, Gordon does not disclose all of the above-recited limitations of Claims 3, 13, and 16. Moreover, none of the other cited references cure the deficiencies of Gordon. For example, the other cited references are silent with respect to the above-recited limitations of Claims 3, 13, and 16. Thus, none of the cited references, either taken singly or in any combination, teach or suggest all of the above-recited limitations of Claims 3, 13, and 16.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). Accordingly, Claims 3, 13, and 16 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above.

"If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Claims 4-5 and 7-8 depend from Claim 3 or a claim which itself is dependent from Claim 3 and, thus, includes all the elements of Claim 3. Claim 15 depends from Claim 13 and, thus, includes all the elements of Claim 13. Claims 17-18 and 20-21 depend from Claim 16 and, thus, include all the elements of Claim 16. Accordingly, Claims 4-5 and 7-8 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 3, Claim 15 is patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 13, and Claims 17-18- and 20-21 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claim 16.

Reconsideration of the rejections is respectfully requested.

Having fully addressed the Examiner's rejections, it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly then, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the applicant's attorney at the phone number below, so that a mutually convenient date and time for a telephonic interview may be scheduled.

No fee is believed due. However, if a fee is due, please charge the fee to Deposit Account No. 07-0832.

Respectfully submitted,

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